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13 Plaintiff  
14 THE SAUL ZAENTZ COMPANY d/b/a Middle-  
15 earth Enterprises, a Delaware corporation

16 **UNITED STATES DISTRICT COURT**  
17 **CENTRAL DISTRICT OF CALIFORNIA**

18 FOURTH AGE LIMITED, a United  
19 Kingdom corporation; PRISCILLA  
20 MARY ANNE REUEL TOLKIEN, as  
21 TRUSTEE OF THE TOLKIEN TRUST,  
22 a United Kingdom Charitable Trust; THE  
23 J.R.R. TOLKIEN ESTATE LIMITED, a  
24 United Kingdom corporation;  
25 HARPERCOLLINS PUBLISHERS,  
26 LTD., a United Kingdom corporation;  
27 UNWIN HYMAN LTD., a United  
28 Kingdom corporation; and GEORGE  
ALLEN & UNWIN (PUBLISHERS)  
LTD., a United Kingdom corporation,

Plaintiffs,

v.

29 WARNER BROS. DIGITAL  
30 DISTRIBUTION, INC., a division of  
31 WARNER BROS. HOME  
32 ENTERTAINMENT, INC., a Delaware  
33 corporation; WARNER BROS.  
34 ENTERTAINMENT, INC., a Delaware  
35 corporation, as successor-in-interest to  
36 New Line Cinema Corp.; WARNER  
37 BROS. CONSUMER PRODUCTS,  
38 INC., a Delaware corporation; WARNER  
BROS. INTERACTIVE  
ENTERTAINMENT, INC., a division of  
WARNER BROS. HOME  
ENTERTAINMENT, INC., a Delaware  
corporation; NEW LINE  
PRODUCTIONS, INC., a California  
corporation, THE SAUL ZAENTZ

Case No.: 12-9912-ABC (SHx)

*Hon. Audrey B. Collins*  
*Hon. Mag. Stephen J. Hillman*

**DISCOVERY MATTER**

**DECLARATION OF JOHN C. ULIN  
IN OPPOSITION TO PLAINTIFFS'  
MOTION TO COMPEL THE SAUL  
ZAENTZ COMPANY TO  
PRODUCE ONE PRIVILEGED  
DOCUMENT**

**Hearing Date:** April 14, 2014  
**Hearing Time:** 2:00 p.m.

**Discovery Cut-Off:** April 15, 2014

COMPANY d/b/a Middle-earth  
Enterprises, a Delaware corporation; and  
DOES 1-10, inclusive,  
  
Defendants.

THE SAUL ZAENTZ COMPANY d/b/a  
Middle-earth Enterprises, a Delaware  
corporation,

Counterclaim Plaintiff,

v.

FOURTH AGE LIMITED, a United  
Kingdom corporation; PRISCILLA  
MARY ANNE REUEL TOLKIEN, as  
TRUSTEE OF THE TOLKIEN TRUST,  
a United Kingdom Charitable Trust; THE  
J.R.R. TOLKIEN ESTATE LIMITED, a  
United Kingdom corporation;  
HARPERCOLLINS PUBLISHERS,  
LTD., a United Kingdom corporation;  
UNWIN HYMAN LTD., a United  
Kingdom corporation; and GEORGE  
ALLEN & UNWIN (PUBLISHERS)  
LTD., a United Kingdom corporation,

Counterclaim  
Defendants,

**DECLARATION OF JOHN C. ULIN**

I, John C. Ulin, declare as follows:

1. I am an attorney at law duly admitted to practice in the State of California and before this Court. I am a partner in the law firm of Arnold & Porter LLP and one of the counsel of record for Defendant and Counterclaim Plaintiff The Saul Zaentz Company (“Zaentz”). I submit this declaration in opposition to a motion by Plaintiffs and Counterclaim-Defendants Fourth Age Limited *et al.* (collectively, the “Tolkien/HC Parties”) to compel the production of a document that is protected by the attorney-client privilege and the work-product doctrine. The facts set forth herein are of my own personal knowledge, and if called to testify, I could and would testify competently thereto.

1           2.     On January 16, 2014, I met with former Zaentz employee Laurie Battle  
2 to prepare Ms. Battle for a deposition noticed by the Tolkien/HC Parties to take place  
3 the next day. In the course of prepping Ms. Battle, it became apparent that Zaentz  
4 had inadvertently produced certain documents containing or reflecting confidential  
5 communications and legal advice of outside counsel. Among these documents was a  
6 document bates numbered SZC0028286. The document is a fax from Jon Bock of  
7 Sierra Online dated October 8, 1997 that contains extensive highlighting and  
8 annotations by Ms. Battle. We learned that the annotations made to the document  
9 revealed the communications and legal advice of outside counsel Paul Rogers of the  
10 Howard Rice firm.

11           3.     Prior the start of Ms. Battle's deposition, I informed Bonnie Eskenazi,  
12 counsel for the Tolkien/HC Parties, that SZC0028286 was privileged and was being  
13 recalled pursuant to the protective order. However, during the deposition, Ms.  
14 Eskenazi asked the court reporter to mark SZC0028286 as Exhibit 92. At that time, I  
15 restated Zaentz's assertion of privilege and recalled the document from the record.  
16 For her part, Ms. Eskenazi did not agree that the document was privileged. I  
17 permitted Ms. Eskenazi to question Ms. Battle concerning the foundation for Zaentz's  
18 assertion of privilege. To do so, Ms. Eskenazi used a "clean" copy of the same  
19 document which does not contain Ms. Battle's privileged annotations, and which was  
20 marked as the new Exhibit 92. However, I allowed Ms. Eskenazi to retain a single  
21 copy of SZC0028286 for the sole purpose of making a motion within the 30-day  
22 period set forth in the Court's Protective Order. *See* ECF 87, at 11-12. In allowing  
23 Ms. Eskenazi to retain this single copy, I did not anticipate that the Tolkien/HC  
24 Parties would, in violation of the Protective Order's 30-day limit, retain the document  
25 for nearly two months before requesting additional information concerning Zaentz's  
26 assertion of privilege. Nor did I anticipate that the Tolkien/HC Parties would scan  
27 and email the privileged document to a dozen recipients in connection with  
28

1 circulating a draft of a joint stipulation, in violation of the Protective Order's separate  
2 prohibition against making copies of recalled documents.

3 I declare under penalty of perjury under the laws of the United States of  
4 America that the foregoing is true and correct.

5 Executed in Los Angeles, California on March 21, 2014.

6  
7 /s/ John C. Ulin  
8 John C. Ulin

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